

House File 65

HOUSE FILE _____
BY COMMITTEE ON PUBLIC SAFETY

(SUCCESSOR TO HSB 5)
(COMPANION TO SF 37 BY
COMMITTEE ON JUDICIARY)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to motor vehicle operating while intoxicated
2 offenses.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 HF 65
5 rh/es/25

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1 1 Section 1. Section 321J.2, subsection 1, paragraph b, Code
1 2 2003, is amended to read as follows:
1 3 b. While having an alcohol concentration of ~~.10~~ .08 or
1 4 more.
1 5 Sec. 2. Section 321J.2, subsection 2, paragraph a,
1 6 subparagraph (3), Code 2003, is amended to read as follows:
1 7 (3) Revocation of the person's driver's license pursuant
1 8 to section 321J.4, subsection 1, section 321J.9, or section
1 9 321J.12, subsection 2, which includes a minimum revocation
1 10 period of one hundred eighty days, ~~including a minimum period~~
1 11 ~~of ineligibility for a temporary restricted license of thirty~~
1 12 ~~days~~, and may involve a revocation period of one year. A
1 13 revocation under section 321J.9 includes a minimum period of
1 14 ineligibility for a temporary restricted license of ninety
1 15 days.
1 16 (a) A defendant whose alcohol concentration is .08 or more
1 17 but not more than .10 shall not be eligible for any temporary
1 18 restricted license for at least thirty days if a test was
1 19 obtained and an accident resulting in personal injury or
1 20 property damage occurred. The defendant shall be ordered to
1 21 install an ignition interlock device of a type approved by the
1 22 commissioner of public safety on all vehicles owned by the
1 23 defendant if the defendant seeks a temporary restricted
1 24 license. There shall be no such period of ineligibility if no
1 25 such accident occurred, and the defendant shall not be ordered
1 26 to install an ignition interlock device.
1 27 (b) A defendant whose alcohol concentration is more than
1 28 .10 shall not be eligible for any temporary restricted license
1 29 for at least thirty days if a test was obtained, and an
1 30 accident resulting in personal injury or property damage
1 31 occurred or the defendant's alcohol concentration exceeded
1 32 .15. There shall be no such period of ineligibility if no
1 33 such accident occurred and the defendant's alcohol
1 34 concentration did not exceed .15. In either case, where a
1 35 defendant's alcohol concentration is more than .10, the
2 1 defendant shall be ordered to install an ignition interlock
2 2 device of a type approved by the commissioner of public safety
2 3 on all vehicles owned by the defendant if the defendant seeks
2 4 a temporary restricted license.
2 5 Sec. 3. Section 321J.4, subsections 1 and 3, Code 2003,
2 6 are amended to read as follows:
2 7 1. If a defendant is convicted of a violation of section
2 8 321J.2 and the defendant's driver's license or nonresident
2 9 operating privilege has not been revoked under section 321J.9
2 10 or 321J.12 for the occurrence from which the arrest arose, the
2 11 department shall revoke the defendant's driver's license or
2 12 nonresident operating privilege for one hundred eighty days if
2 13 the defendant has had no previous conviction or revocation
2 14 under this chapter. The defendant shall not be eligible for
2 15 any temporary restricted license ~~for at least thirty days~~
2 16 ~~after the effective date of the revocation if a test was~~
2 17 ~~obtained and for at least ninety days if a test was refused~~
2 18 under section 321J.9.
2 19 a. A defendant whose alcohol concentration is .08 or more
2 20 but not more than .10 shall not be eligible for any temporary
2 21 restricted license for at least thirty days if a test was

2 22 obtained and an accident resulting in personal injury or
2 23 property damage occurred. The defendant shall be ordered to
2 24 install an ignition interlock device of a type approved by the
2 25 commissioner of public safety on all vehicles owned by the
2 26 defendant if the defendant seeks a temporary restricted
2 27 license. There shall be no such period of ineligibility if no
2 28 such accident occurred, and the defendant shall not be ordered
2 29 to install an ignition interlock device.

2 30 b. A defendant whose alcohol concentration is more than
2 31 .10 shall not be eligible for any temporary restricted license
2 32 for at least thirty days if a test was obtained, and an
2 33 accident resulting in personal injury or property damage
2 34 occurred or the defendant's alcohol concentration exceeded
2 35 .15. There shall be no such period of ineligibility if no
3 1 such accident occurred and the defendant's alcohol
3 2 concentration did not exceed .15. In either case, where a
3 3 defendant's alcohol concentration is more than .10, the
3 4 defendant shall be ordered to install an ignition interlock
3 5 device of a type approved by the commissioner of public safety
3 6 on all vehicles owned by the defendant if the defendant seeks
3 7 a temporary restricted license.

3 8 c. If the defendant is under the age of twenty-one, the
3 9 defendant shall not be eligible for a temporary restricted
3 10 license for at least sixty days after the effective date of
3 11 revocation.

3 12 3. If the court defers judgment pursuant to section 907.3
3 13 for a violation of section 321J.2, and if the defendant's
3 14 driver's license or nonresident operating privilege has not
3 15 been revoked under section 321J.9 or 321J.12, or has not
3 16 otherwise been revoked for the occurrence from which the
3 17 arrest arose, the department shall revoke the defendant's
3 18 driver's license or nonresident operating privilege for a
3 19 period of not less than thirty days nor more than ninety days.
3 20 The defendant shall not be eligible for any temporary
3 21 restricted license for at least thirty days after the
3 22 effective date of the revocation if a test was obtained and
3 23 for at least ninety days if a test was refused.

3 24 a. A defendant whose alcohol concentration is .08 or more
3 25 but not more than .10 shall not be eligible for any temporary
3 26 restricted license for at least thirty days if a test was
3 27 obtained and an accident resulting in personal injury or
3 28 property damage occurred. The defendant shall be ordered to
3 29 install an ignition interlock device of a type approved by the
3 30 commissioner of public safety on all vehicles owned by the
3 31 defendant if the defendant seeks a temporary restricted
3 32 license. There shall be no such period of ineligibility if no
3 33 such accident occurred, and the defendant shall not be ordered
3 34 to install an ignition interlock device.

3 35 b. A defendant whose alcohol concentration is more than
4 1 .10 shall not be eligible for any temporary restricted license
4 2 for at least thirty days if a test was obtained, and an
4 3 accident resulting in personal injury or property damage
4 4 occurred or the defendant's alcohol concentration exceeded
4 5 .15. There shall be no such period of ineligibility if no
4 6 such accident occurred and the defendant's alcohol
4 7 concentration did not exceed .15. In either case, where a
4 8 defendant's alcohol concentration is more than .10, the
4 9 defendant shall be ordered to install an ignition interlock
4 10 device of a type approved by the commissioner of public safety
4 11 on all vehicles owned by the defendant if the defendant seeks
4 12 a temporary restricted license.

4 13 c. If the defendant is under the age of twenty-one, the
4 14 defendant shall not be eligible for a temporary restricted
4 15 license for at least sixty days after the effective date of
4 16 the revocation.

4 17 Sec. 4. Section 321J.6, subsection 1, paragraph g, Code
4 18 2003, is amended to read as follows:

4 19 g. The preliminary breath screening test was administered
4 20 and it indicated an alcohol concentration of .02 or more but
4 21 less than ~~.10~~ .08 and the person is under the age of twenty=
4 22 one.

4 23 Sec. 5. Section 321J.12, subsection 2, Code 2003, is
4 24 amended to read as follows:

4 25 2. a. A person whose driver's license or nonresident
4 26 operating privileges have been revoked under subsection 1,
4 27 paragraph "a", whose alcohol concentration is .08 or more but
4 28 not more than .10 shall not be eligible for any temporary
4 29 restricted license for at least thirty days after the
4 30 effective date of the revocation if a test was obtained and an
4 31 accident resulting in personal injury or property damage
4 32 occurred. The defendant shall be ordered to install an

4 33 ignition interlock device of a type approved by the
4 34 commissioner of public safety on all vehicles owned by the
4 35 defendant if the defendant seeks a temporary license. There
5 1 shall be no such period of ineligibility if no such accident
5 2 occurred, and the defendant shall not be ordered to install an
5 3 ignition interlock device.

5 4 b. A defendant whose alcohol concentration is more than
5 5 .10 shall not be eligible for any temporary restricted license
5 6 for at least thirty days if a test was obtained, and an
5 7 accident resulting in personal injury or property damage
5 8 occurred or the defendant's alcohol concentration exceeded
5 9 .15. There shall be no such period of ineligibility if no
5 10 such accident occurred and the defendant's alcohol
5 11 concentration did not exceed .15. In either case, where a
5 12 defendant's alcohol concentration is more than .10, the
5 13 defendant shall be ordered to install an ignition interlock
5 14 device of a type approved by the commissioner of public safety
5 15 on all vehicles owned by the defendant if the defendant seeks
5 16 a temporary restricted license.

5 17 c. If the person is under the age of twenty-one, the
5 18 person shall not be eligible for a temporary restricted
5 19 license for at least sixty days after the effective date of
5 20 the revocation.

5 21 d. A person whose license or privileges have been revoked
5 22 under subsection 1, paragraph "b", for one year shall not be
5 23 eligible for any temporary restricted license for one year
5 24 after the effective date of the revocation, and the person
5 25 shall be ordered to install an ignition interlock device of a
5 26 type approved by the commissioner of public safety on all
5 27 vehicles owned or operated by the defendant if the defendant
5 28 seeks a temporary restricted license at the end of the minimum
5 29 period of ineligibility. A temporary restricted license shall
5 30 not be granted by the department until the defendant installs
5 31 the ignition interlock device.

5 32 Sec. 6. Section 321J.12, subsection 5, Code 2003, is
5 33 amended to read as follows:

5 34 5. Upon certification, subject to penalty of perjury, by
5 35 the peace officer that there existed reasonable grounds to
6 1 believe that the person had been operating a motor vehicle in
6 2 violation of section 321J.2A, that there existed one or more
6 3 of the necessary conditions for chemical testing described in
6 4 section 321J.6, subsection 1, and that the person submitted to
6 5 chemical testing and the test results indicated an alcohol
6 6 concentration ~~as defined in section 321J.1~~ of .02 or more but
6 7 less than ~~.10~~ .08, the department shall revoke the person's
6 8 driver's license or operating privilege for a period of sixty
6 9 days if the person has had no previous revocation under this
6 10 chapter, and for a period of ninety days if the person has had
6 11 a previous revocation under this chapter.

6 12 Sec. 7. Section 321J.20, subsection 6, Code 2003, is
6 13 amended to read as follows:

6 14 6. Following certain minimum periods of ineligibility, a
6 15 temporary restricted license under this section shall not be
6 16 issued until such time as the applicant installs an ignition
6 17 interlock device of a type approved by the commissioner of
6 18 public safety on all motor vehicles owned or operated by the
6 19 applicant, in accordance with section ~~321J.2, 321J.4, 321J.9,~~
6 20 ~~or 321J.12.~~ Installation of an ignition interlock device
6 21 under this section shall be required for the period of time
6 22 for which the temporary restricted license is issued.

6 23 Sec. 8. IMPLEMENTATION OF ACT. Section 25B.2, subsection
6 24 3, shall not apply to this Act.

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